

**United States District Court
for the District of Massachusetts
Amended Report on Offender Under Supervision**

Name of Offender: Annette Gracia

Case Number: 1:17CR10301

Name of Sentencing Judicial Officer: The Honorable Indira Talwani, U.S. District Judge

Date of Original Sentence: 1/23/18

Original Offense: Producing a False Identification Document, in violation of 18 U.S.C. 1028(a)(1).

Original Sentence: 12 months custody of the Bureau of Prisons to be followed by 24 months of supervised release.

Type of Supervision: Supervised Release

Date Supervision Commenced: 1/17/19

NON-COMPLIANCE SUMMARY

Reference is made to the Form 12A dated 4/19/19, which detailed new criminal charges outlined in Violation I and recommended no immediate action by the Court. This Amended Form 12A is respectfully submitted to inform the Court of new additional criminal charges, as detailed in Violation II below.

<u>Violation Number</u>	<u>Nature of Noncompliance</u>
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I	<u>Violation of Mandatory Condition of Supervised Release: The defendant must not commit another Federal, state or local crime.</u>
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On 4/13/19, Boston Police Officers responded to a report of domestic violence occurring at Ms. Gracia's residence located at 2A Maynard Street in Roslindale, MA. Upon arrival, the Officers were met by Ms. Gracia who reported that she and her 10-year-old daughter, Annelise Arthur had an argument over the use of a cell phone. Ms. Gracia further reported that her daughter had "got in her face" during the argument so she pushed her away by placing her hands on her upper chest/lower neck area. Thereafter, Ms. Gracia stated that her husband, Antoine Arthur attempted to contact 911, however, she attempted to keep him from doing so, which resulted in two small lacerations to her right hand. Given that Ms. Gracia complained that she was having an asthma attack, and had been experiencing both depression and high blood pressure, an ambulance was summonsed to the scene so she could be evaluated.

Officers subsequently spoke to Mr. Arthur who advised that he was downstairs watching television when he heard a commotion and what he thought sounded like someone choking upstairs. Mr. Arthur then went upstairs to investigate and observed his wife and the child involved in an altercation. He then attempted to call 911, at which time, Ms. Gracia unsuccessfully attempted to take the phone from him which resulted in a very minor scratch to his right forearm.

When Officers later interviewed the victim, she explained that she had wanted to play a game on her cell phone and knowing that her mother would object, she shut her bedroom door and attempted to barricade it to the point where her mother would not be able to gain entry. Ms. Gracia was able to enter her room, and when she did, the victim stated that she was pushed onto her bed and was then strangled by her mother. When Officers asked if she was able to breath or speak, the victim replied, "sort of." It is noted that Officers did not observe any bruising or redness to the victim's neck and EMT's on scene determined that further treatment at an area hospital was not necessary.

Based on the above information, Officers placed Ms. Gracia under arrest for Assault and Battery 209A and transported her to Boston Medical Center to be treated for her medical conditions. On 4/16/19, Ms. Gracia was arraigned in West Roxbury District Court for Assault and Battery and Strangulation. Consequently, she was released on a \$150.00 previously posted bail pending a pretrial hearing on 5/21/19. On that date, the matter was continued for a status hearing on 6/21/19.

II

On 5/29/19, Boston Police Officers were dispatched to 600 Hyde Park Avenue in Hyde Park, MA after receiving an anonymous call stating a person was carrying a loaded firearm. According to the report relayed by dispatch, the anonymous caller stated "they were 99.9% sure they had just observed a 300-pound Hispanic female with a ponytail wearing black pants, and a grey hood sweatshirt, put a black and gold handgun inside her bag in front of a pizza shop."

Upon arrival, Officers observed a female matching the above description, later identified as Annette Gracia, walking in the vicinity of the reported pizza shop. When questioned if she had just placed a handgun in her bag, Ms. Gracia did not respond, and attempted to open the back pack that was in her possession. At this point an Officer retrieved the bag from Ms. Garcia, and subsequently discovered 1 magazine containing 8 live rounds of 380 ammunition inside. Ms. Garcia was then asked to produce a License to Carry Permit which she admitted she did not own. A search of the immediate area

for a firearm resulted in no further evidence being found.

During questioning, Ms. Gracia denied ownership of the magazine, and then alleged that her husband, Antoine Arthur planted the item in her bag to deliberately get her in trouble. She noted she had just left her husband's home prior to walking to Hyde Park Avenue. Although the parties are separated, Ms. Gracia explained that the couple are currently involved in an ongoing custody battle, and she had gone to the house where Arthur and her children live, to clean the property in anticipation of a DCF visit later that date.

U.S. Probation Officer Action:

On 4/19/19, the Probation Officer filed a Report on Offender Under Supervision (Form 12A) to notify the Court of the new law violation detailed in Violation I above. Although our office was troubled by the circumstances surrounding Ms. Gracia's arrest, we had asked the Court to refrain from taking action at the time based on the following post arrest developments: the child was not removed from home as a result of Ms. Gracia's arrest; the state court did not issue a no contact order between her and the child; DCF had been notified and planned to monitor the case going forward; and there were ongoing domestic issues between Ms. Gracia and her husband, with the most recent being her allegedly being assaulted by him two days prior to her arrest. Additionally, and most importantly, Ms. Gracia had agreed to vacate the premises immediately, and to continue attending therapy weekly to address the increasing depression and anxiety she has dealt with since her release.

Since her arraignment on the charges detailed in Violation I, Ms. Gracia has attended her scheduled court appearances in West Roxbury Court, and although she was optimistic the matter would be dismissed at her pretrial hearing on 5/21, the case remains pending with a next hearing on 6/20/19. Likewise, DCF supported the initial abuse claim against her, and as a result, opened a case in their Hyde Park Office to monitor her family's living arrangement more closely and provide resources where necessary. While neither Ms. Gracia nor her husband have obtained restraining orders against each other, given their present contentious relationship, Ms. Gracia agreed to relocate to another residence until both her pending criminal matter and DCF case had been resolved. She further agreed to sever all contact with Mr. Arthur, absent an issue that needed to be discussed involving their two children.

In regards to the additional charges noted in Violation II, despite admitting to Officers that she returned to the home where her husband and children live on 5/30/19, Ms. Gracia has insisted she only did so once she confirmed with her daughters that her husband was not home. After cleaning the home in preparation of a DCF visit, she decided to take a shower, and that is when her husband reportedly came home without her knowledge. Upon learning he was in the home, she recalled grabbing her bag and immediately leaving the home to take a bus on Hyde Park Avenue. Ms. Gracia claims that when she exited a store a short while later, she observed Mr. Arthur in a car

across the street, but did not approach him as she walked to the bus stop. Shortly after, she states the Officer approached her and questioned her about a loaded magazine that was subsequently found inside her purse.

Ms. Gracia has vehemently denied owning the magazine, and alleged that Mr. Arthur placed the item in her bag while she was in the shower, and then deliberately called the police in an effort to have her arrested and gain leverage in their custody dispute.

While nothing in Ms. Gracia's history suggests she has any tendency to carry illegal firearms, or ammunition, we have advised her that since she has no proof to support the allegations against her husband, and has been formally charged, this violation would need to be reported to the Court. Nonetheless, we do believe that based on the circumstances leading up her arrest, her claims of being falsely accused have some merit. We would note that the responding Officer contacted our office at the time of the incident to advise that the Boston Police also found Ms. Gracia's claim to be credible which is why she opted to request a summons, in lieu of making an on-scene arrest. Therefore, we are respectfully asking Your Honor to refrain from taking any action at this time to allow Ms. Gracia due process for both of her pending state matters.

We recognize that incurring two new state charges for serious offenses in less than 60 days is concerning, which is why we plan to continue to increase the level of monitoring of her case, as well as our interaction with her assigned therapist, over the next several weeks. In the event there are any new violations, or either of her pending cases result in negative outcomes, we will revisit this recommendation and update the Court accordingly. If Your Honor agrees with our recommendation, kindly affix your signature below.

/s/Lisa Paiva

Lisa Paiva

Supervising U.S. Probation Officer

/s/Patrick Skehill

Patrick Skehill

U.S. Probation Officer

6/3/2019

THE COURT ORDERS

- [☒] No Action *The court agree with the recommendation.*
[☐] The Extension of Supervision as Noted Above
[☐] The Modification of Conditions as Noted Above
[☐] Other



Honorable Indira Talwani

U.S. District Judge

6/5/2019
Date